

TESTIMONY OF JEFFREY S. THEUER
IN SUPPORT OF HB 4502 (2017)

MAY 3, 2017

Good Morning Mr. Chairman and members of the Committee. My name is Jeff Theuer. I am a shareholder with the law firm of Loomis, Ewert, Parsley, Davis & Gotting, P.C., in Lansing, and I am an associate member of the Michigan Council of Self-Insured Group Administrators. I have represented group self-insurers in regulatory and governance matters for more than 18 years. I speak today in support of House Bill 4502.

HB 4502 represents an important clarification of the 2012 amendments to the Michigan Income Tax Act of 1967, MCL 206.1, *et seq.* ("CIT"). The 2012 amendments helped make Michigan a more competitive place to do business by, among other things, eliminating the double taxation of certain types of entities such as limited liability companies and S-corporations. Group self-insurer funds share many of the same flow-through characteristics as LLCs and S-corporations, but they are not registered as any form of business entity. They are groups of employers in the same industry which have agreed to pool their liabilities for purposes of qualifying as self-insurers under the Michigan Workers Disability Compensation Act, MCL 418.611(2), to provide themselves with workers disability compensation coverage. The agreements and the funds are regulated by the Workers Compensation Agency. Any surplus not used for payment of claims and administrative expenses is returned to members, subject to approval by the Workers Compensation Agency.

Unfortunately, self-insurer groups were not addressed in the 2012 amendments. This oversight was probably due to the relatively small size of the self-insured industry. There are less than forty (40) active self-insured workers compensation group funds in the state of Michigan. The unresolved status of these group funds has resulted in uncertainty within the industry, and in tax planning and audit procedures for these funds. HB 4502 resolves this problem by expressly exempting self-insurer groups organized under the Michigan Workers Disability Compensation Act.

HB 4502 would also codify and give industry-wide applicability to a Letter Ruling from the Department of Treasury issued on November 14, 2016, which determined that a self-insured workers compensation fund was not subject to the CIT. That Letter Ruling itself was a clarification of the commonly accepted understanding of the group self-insurer industry. Self-insurer group funds are not corporations, insurance companies, or financial institutions within the meaning of the CIT. They are groups of employers which are organized and operate under Section 611 of the Michigan Workers Disability Compensation Act, and are regulated by the Workers Compensation Agency. Passage of HB 4502 would add much-needed certainty to the group self-insurer industry by settling their tax status on an industry-wide basis.

Thank you for your time and consideration.